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December 8, 2023

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VIA ECF AND EMAIL

The Honorable Katherine Polk Failla
U.S. District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *In re Tether and Bitfinex Crypto Asset Litigation*, No. 1:19-cv-09236-KPF – Letter Motion to File Defendant Phil Potter’s Opposition to Plaintiffs’ Motion for Leave to Amend under Seal

Dear Judge Failla:

I write on behalf of Defendant Philip G. Potter (“Mr. Potter”) in the above-referenced action. Pursuant to Rule 9 of Your Honor’s Individual Rules of Practice in Civil Cases, Mr. Potter requests permission to file his Opposition to Plaintiffs’ Motion for Leave to Amend (the “Opposition Brief”) under seal.

Mr. Potter’s Opposition Brief contains information that has been designated as Confidential or Attorneys’ Eyes Only pursuant to the Protective Order. ECF No. 151, at ¶ 3. For example, the Opposition Brief cites allegations from the proposed Second Amended Consolidated Complaint (the “SAC”), which has been filed under seal at ECF No. 480-1.¹ Moreover, the Opposition Brief references information concerning the Anonymous Trader. Such information is designated as Strictly Attorneys’ Eyes Only subject to the Court’s November 22, 2021 Order and subsequent orders. ECF Nos. 195, 215, 420, 439.

Accordingly, Mr. Potter respectfully requests leave to file his Opposition Brief under seal in the first instance to avoid any improper disclosure of information designated as Confidential or Attorneys’ Eyes Only. *See* ECF No. 151, at ¶ 4b. Mr. Potter further requests permission to file an unsealed, redacted version of his Opposition Brief by December 22, 2023, subject to redactions proposed by Plaintiffs, the Bitfinex-Tether Defendants, and the Anonymous Trader, and redactions to comply with the Court’s prior orders. *See* ECF Nos. 195, 215.

Respectfully submitted,

/s/ Charles D. Cording

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¹ A redacted version of the SAC has yet to be filed; as such, the Opposition Brief cites the sealed version.

Application GRANTED. The Clerk of Court is directed to maintain docket entry 503 under seal, viewable to the Court and the parties only.

The Clerk of Court is further directed to terminate the pending motion at docket number 502.

Dated: December 18, 2023
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE